



WESTFIELD-WASHINGTON

BOARD OF ZONING APPEALS

December 15, 2009

0912-VS-12

Exhibit 1

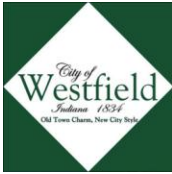
PETITION NUMBER:	0912-VS-12
SUBJECT SITE ADDRESS:	17529 Spruce Lane
APPELLANT:	Brad & Lori Hutson
REQUEST:	<p>The Appellant is requesting Variances of Standard from the Westfield-Washington Zoning Ordinance for the following:</p> <ol style="list-style-type: none">1. (WC 16.04.030, B5) to reduce the minimum lot frontage from 250 feet to 0 feet, and;2. (WC 16.04.030, B6a) to reduce the minimum front yard setback from 80 feet to 26 feet.
CURRENT ZONING:	AG-SF1
CURRENT LAND USE:	Single-Family Residential
APPROXIMATE ACREAGE:	8.5 acres +/-
RELATED CASES:	91-V-3 0912-VS-11
EXHIBITS:	<ol style="list-style-type: none">1. Staff Report2. Aerial Location Map3. Property Card4. 1974 Aerial Photograph5. 1985 Aerial Photograph6. Letter of Grant (91-V-3)7. Appellant's Application and Plans
STAFF REVIEWER:	Kevin M. Todd, AICP

PETITION HISTORY

This variance request will be heard at the December 15, 2009 Board of Zoning Appeals (the "BZA") meeting.

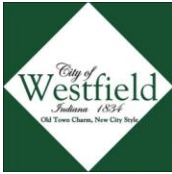
PROPERTY DESCRIPTIONS

- "Original Property" – 9.7 acres; located at the southern terminus of the private drive commonly known as Spruce Lane. The property does not have any road frontage.
- "Large Property" – 8.5 acres; resulting from a split of the Original Property. This property has a mobile home. The property's address is 17529 Spruce Lane.
- "Small Property" – 1.2 acres; located as an island within the Large Property and was created as a result of a split of the Original Property. This property has a traditional single-family home and accessory structures. The property's address is 17531 Spruce Lane.



PROPERTY HISTORY

- **1974** (see Exhibit 4 for 1974 Aerial Photograph)
 - The Original Property exists, including one single-family structure.
- **1977**
 - Zoning enacted in Westfield-Washington Township.
 - The Original Property exists as described above, with the addition of a second residential structure on the property (the mobile home).
 - Enactment of zoning ordinances results in the status of “Legally Established, Non-Conforming” applying to the Original Property in two (2) ways:
 - Legally Established, Non-Conforming Lot (non-conforming aspect is no road frontage).
 - Legally Established, Non-Conforming Use (non-conforming aspect is two (2) residences on one (1) property).
- **1977-1985** (see Exhibit 5 for 1985 Aerial Photograph)
 - Original Property is split, creating the Large Property and the Small Property
 - Split resolves Non-Conforming Use issues – each residential structure is on a single lot after the split. Use of both properties conforms to the zoning ordinance standards.
 - Split creates two (2) illegal lots that do not conform to the development standards (Minimum Road Frontage for both properties, Minimum Lot Size for the Small Property, and Front Yard Setback encroachment for both properties). Both lots do not conform to the zoning ordinance standards.
- **1991**
 - Approved variance resolves development standard issues (the “1991 Variance”) (91-V-3; see Exhibit 6)
 - Condition placed on the approval that “the mobile home be used only by the current resident, and when that ends, the mobile home will be removed.” The resident referred to in the 1991 Variance was the Appellant’s grandmother.
 - After variance approval, both lots conform to the zoning ordinance standards.
- **2009**
 - Grandmother does not live in mobile home, violating the condition of approval for the 1991 Variance.
 - Status of both properties:
 - Use conforms to the zoning ordinance standards.
 - Lots do not conform to the zoning ordinance standards.
 - The Appellant wishes to add to the residential structure on the Small Property and is currently seeking to bring both properties back into compliance with applicable zoning standards, including a further reduction of the front yard setback requirement needed in order to construct the residential building addition



on the Small Property.

ANALYSIS

Minimum Lot Frontage on Road

The Large Property is located in the AG-SF1 District, which requires a minimum of two hundred fifty (250) feet of road frontage. The Original Property was established without road frontage prior to zoning standards taking effect in 1977. At the time zoning took effect in Westfield-Washington Township, the property was a legally established, non-conforming property. Once the Original Property was split, however, the non-conforming status of the property was dissolved. Splitting the property created two non-conforming properties. The Large Property did not have any road frontage. Reducing the Large Property's Minimum Frontage on Road to zero (0) feet would bring the lot into compliance and would re-establish what was conditionally approved by the 1991 Variance.

Front Yard Setback

The Large Property does not have a front yard, as defined by the Westfield-Washington Zoning Ordinance, because it does not have road frontage. However, for the purpose of applying reasonable development standards to a non-conforming lot, City Staff has determined that the northern property line will function as the front lot line in this instance. The existing mobile home is approximately twenty-six (26) feet from the northern property line and encroaches the front yard setback requirement by fifty-four (54) feet. The mobile home has been in the same location since at least 1977, as noted in the staff report for the 1991 Variance. The submitted plans do not indicate any further encroachment of the front yard. Reducing the Large Property's Front Yard Setback to twenty-six (26) feet would bring the existing conditions into compliance and would re-establish what was conditionally approved by the 1991 Variance.

PROCEDURAL

A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Ind. Code 36-7-4-918.5 only upon a determination in writing that:

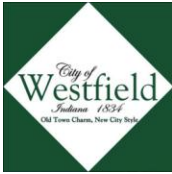
STANDARDS FOR VARIANCE REQUEST

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

Finding: It is unlikely that approving the requested variances would be injurious to the public health, safety, morals, and general welfare of the community. Approving the variance would bring the existing conditions of the Large Property into compliance with the AG-SF1 standards. Granting approval of this request would not entitle further non-conformity of the use and property to occur.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

Finding: It is unlikely that approving the requested variances would have an adverse impact on



the use and value of adjacent property. Approving the variance would establish compliance with the zoning ordinance. No physical changes to the existing condition of the Large Property are planned. The lack of physical changes to the property will likely result in a neutral effect on the value of neighboring residential property. Feedback from adjacent property owners should provide insight about the impact on adjacent properties.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property:

Finding: Strict adherence to the zoning ordinance may result in a practical difficulty in the use of the Large Property. The variances that were necessary to bring the Large Property into compliance were conditionally approved in 1991. Because the condition of the 1991 Variance has been violated, the Appellant is requesting to gain back the necessary variances which will bring the Large Property into conformity again.

RECOMMENDATION

Deny this request because:

1. Strict application of the zoning ordinance may result in a practical difficulty in the use of the Large Property (including the mobile home).

NOTE – The task at hand is for the BZA to determine whether or not to allow the continued use of the mobile home and alter the condition that was imposed in the 1991 Variance. The condition reads as follows, “The mobile home be used only by the current resident, and when that ends, the mobile home will be removed.”

KMT